STATE OF MICHIGAN

COURT OF APPEALS

NANCY TARPLEY,

Plaintiff-Appellant,

v

TROY-MADISON INN, d/b/a DAYS INN,

Defendant-Appellee.

UNPUBLISHED
September 2, 2003

No. 239639
Oakland Circuit Court
LC No. 99-019642-NO

Before: Markey, P.J., and Cavanagh and Saad, JJ.

MEMORANDUM.

In this premises liability case plaintiff appeals by right from an opinion and order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff slipped and fell on an incline in the pavement immediately after exiting defendant's hotel. The trial court determined that if one were looking down, the incline was "there to be seen," so it concluded that the incline was open and obvious.

> [A] premises possessor is not required to protect an invitee from open and obvious dangers, but, if special aspects of a condition make even an open and obvious risk unreasonably dangerous, the premises possessor has a duty to undertake reasonable precautions to protect invitees from that risk. [*Lugo v Ameritech Corp,* 464 Mich 512, 517; 629 NW2d 384 (2001).]

Plaintiff argues there were issues of fact regarding whether "special aspects" made the risk of harm unreasonable. Specifically, she claims there was no other exit from the hotel, a logo on the door obscured her view, the incline was not marked with paint or warning, and the door opened outward into the middle of the incline.

In *Lugo, supra* at 519, the Court stated that "only those special aspects that give rise to a uniquely high likelihood of harm . . . if the risk is not avoided will serve to remove [an open and obvious danger] from the open and obvious danger doctrine." Although the door opened outward onto the incline, it was glass and the incline could be seen upon approaching. There was a logo on the door, but the pictures submitted as evidence do not reflect that it significantly affected one's ability to observe the incline. Although the incline was not painted or otherwise marked, defendant would have been required to take steps to warn only if this open and obvious

condition was unreasonably dangerous. Likewise, that there was no other exit from the hotel is relevant only if plaintiff can establish an unreasonable risk of danger that could be avoided by using a different exit. Simply put, plaintiff has not identified special aspects that preclude applying the open and obvious danger doctrine to the inclined pavement.

We affirm.

/s/ Jane E. Markey
/s/ Mark J. Cavanagh
/s/ Henry William Saad